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THE MUNICIPAL COURT OF PHILADELPHIA.*

The Municipal Court movement originated because of the intolerable burden which the procedure in force in our Magistrates' and Common Pleas Courts imposed upon the wage-earners and business men of this city.

Before January 1, 1914, it was necessary for any one, with a claim of less than one hundred dollars, to start suit before a magistrate. In a week or so, he obtained a trial. Automatically the magistrate entered judgment in his favor. He then waited twenty days and at the end of that time the defendant entered an appeal as of course, and the whole case had to be tried over again in the Court of Common Pleas. The creditor had wasted five dollars and fifty cents in money and one month in time. His troubles, however, had just begun. After the case was on the trial list, he had to wait some two years before it was even reached for trial. Under the two-day rule, it stayed on the trial list two days, and, if not reached in that time, went off for the term and did not appear again for at least three months, instead of remaining on the list until reached, as in other cities. The same process was repeated again and again, and it was no uncommon occurrence for a case to appear in a list four, five or six times before it was finally reached and to be tried five years after suit was started. During all that time the plaintiff must stay in court with his witnesses, losing his own time and paying for theirs.

*The writer was one of the pioneers in the movement which has finally resulted in a Municipal Court in this city. In the early part of 1909, he introduced a resolution before the Law Association of Philadelphia providing for the abolishment of the Magistrates' Courts and the establishment of a Municipal Court. This was referred to the Legislative Committee and finally adopted, and became the basis of the Municipal Court movement. He was appointed a member of the Executive Committee by the City Convention, called to consider the question of a Municipal Court, and was selected as one of the sub-committee of three which had charge of the preparation or approval of the Municipal Court bills before the last Legislature. The Act was held constitutional by the Supreme Court of Pennsylvania in an opinion filed January 9, 1914.—*Editor*.

Such a system was directly opposed to all business interests, for if a debtor refused to pay a just debt no judgment could be obtained against him for years. The head of a large business once remarked to the writer that a man had to be immortal to collect a claim in Philadelphia. This reacted on all business. Honest men found it difficult to get credit in Philadelphia because dishonest men took advantage of the court system in this city and refused to pay their debts. Moreover, the Courts of Common Pleas were using up a large part of their time, which costs the county a little over two dollars a minute, in hearing petty cases which, in every other city of the world were finally disposed of by magistrates elected for that purpose. One member of our bar prepared statistics under which he showed that over one hundred years of somebody's time—lawyers, parties and witnesses—was lost in this city every year in the trial of cases by reason of this two-day rule.

The Municipal Court starts free from all time-wasting technicalities. It begins with nine judges, a judge for every two hundred thousand in population or fraction thereof exceeding one hundred thousand. They are elected for a ten-year term, at a salary of six thousand dollars. Unlike the magistrates, these judges must be lawyers. Philadelphia is the only large city in this country which allows bartenders, real estate agents, store-keepers, and other men of miscellaneous occupations to sit as judges in cases concerning the life, liberty and property of its citizens. This new court is to be open at all times. This is in accordance with the principle laid down by Jeremy Bentham, the law reformer of England, when he wrote that "justice should slumber only when injustice does."

The new court will sit at the City Hall, or at such other places as may be designated by the court for the convenience of suitors, or the accommodation of the public. In Chicago and New York the Municipal Court has branches all over the city, and it is to be hoped that this will eventually be the case in Philadelphia. The fees are the same as in the Courts of Common Pleas. The prothonotary of the Court of Common Pleas

and the clerk of the Court of Quarter Sessions are to act as officers of this new court. This is a saving in expense, but the provision that the prothonotary shall have the appointment of all necessary clerks and assistants, is unfortunate. It is the same mistake which has taken from the judges of the Courts of Common Pleas practically all power or authority over their subordinates. At present they are allowed to appoint tipstaves, but no other officers. The result is that they are served by officers who are not answerable to them, but to an outside party. This means an impairment of efficiency and authority. It gives the party in power an added number of profitable berths to use as political rewards.

All fees are payable into the county treasury, which is in line with good modern legislation, abolishing the fee system. Jurors are to be drawn the same way as in the Courts of Common Pleas, and the sheriff serves the processes of the court. In this respect an opportunity for lessening delay and expense has been lost. Why should papers have to be served by a deputy sheriff? Unscrupulous deputies frequently delay suits and always expect extra compensation in any difficult case. It requires no special gift or unction and should involve but little expense to hand a man a paper, tell him what it is, and afterwards file an affidavit to the service. This is what is done in New York and Chicago.

One judge will hold a juvenile court and will serve at least a year or longer at the discretion of the president judge. The advantage of this provision is that a judge becomes familiar with cases involving the law of the juvenile court. It is to be hoped that the judge designated will be allowed to sit throughout his whole term. Moreover, all accused children are brought directly before the judge without any preliminary hearing, which means that they are not herded with adult criminals before a magistrate or imprisoned awaiting trial. The president judge has the right to appoint a chief probation officer at a salary of three thousand dollars and assistant probation officers at salaries of one thousand five hundred dollars.

The new Municipal Court has jurisdiction up to six hundred dollars exclusive of costs and disbursements in contract and equity

cases, and up to one thousand five hundred dollars in damage suits. It also has jurisdiction in civil cases transferred to it by order of the judges of any Court of Common Pleas. This last clause will provide relief for overcrowded calendars and will save the county the expense of importing judges from other counties at twenty dollars per day to relieve the congestion of cases as is done at present. The new court will also have jurisdiction in all criminal suits except arson, burglary, forgery, kidnapping, murder, voluntary manslaughter, perjury, rape, robbery, treason, misprison of treason, violation of election or registration laws or conspiracy to violate them, criminal libel, embezzlement by a public officer, and offences involving a breach of official duties by any public officer. It has exclusive jurisdiction in all desertion and non-support cases, including the support of parents by children and also in proceedings to determine the custody of children and concerning dependent, delinquent and neglected children.

Suits can be started by filing a statement of claim, setting forth the facts of the claim, as in the Courts of Common Pleas, or a plaintiff can come in and state his case orally to a clerk, who will prepare a statement for him. This provision will be of help to parties who are unable, by reason of poverty, to retain counsel. An answer must be filed within ten days. In this answer the defendant must either admit or deny the allegations in the statement of claim or plead ignorance in regard to them. If the latter, the plaintiff is put to proof. All facts not denied are admitted, and need not be proved. This will simplify trials. Judging from results obtained in New York, it would have been more practical if the rule had been adopted that all facts not denied, would also be considered as admitted. A defendant will be tempted to plead ignorance in regard to all facts which he does not deny, and force the plaintiff to his proof. The answer may be oral and no plea need be filed. An important provision is in regard to jury trials. Unless the statement of claim or the answer demands a jury, and four dollars is deposited for this luxury, the case will be tried before a judge. This practice obtained in the old magistrates' courts in New York and a jury of six could be demanded, if necessary, but it was rarely ever done. This pro-

vision is going to make juries as scarce in Philadelphia as they have been in Connecticut.

After the case is at issue, it can be immediately ordered on the trial list by either party. It is to be hoped that the Municipal Court will utilize this golden opportunity to break away from some of the outworn rules which hamper the Courts of Common Pleas. The two-day rule should never be permitted to gain a foothold in this court, and a case once on a trial list should remain there until tried.

Another improvement which the lack of consolidation of the Courts of Common Pleas has made impossible, is contained in that provision of the Municipal Court Act which provides that for the purpose of promptly disposing of all motions and rules in connection with its business, the court shall have at least one judge sitting continuously every day for the sole purpose of hearing rules. This is done in New York. In our present system in Common Pleas, trials have to be stopped at intervals to allow the court to hear and pass upon rules. Consequently, Philadelphia has a smaller number of weeks devoted to jury trials than any other city in this country.

One of the most important of the provisions of the Act is the one which gives the new court the power to make its own rules of practice and procedure and to keep its own records in the way which it may deem best. This offers an unexampled opportunity for the judges of this court to profit by the experience and mistakes of the Courts of Common Pleas.

One great weakness of the Philadelphia Municipal Court, as compared with that of Chicago, is the lack of power on the part of the presiding judge. No man is fitted to be a judge of the amount of work which he will do. It is human nature for a worker to lessen his output whether he is a judge or a bricklayer, unless he is responsible to some one. In Chicago the chief justice can insist upon a weekly or monthly report from the judges under him showing the number of hours he has worked per week and the number of cases tried. This is printed each month and the chief justice has the right to insist that each judge must maintain a high standard of accomplishment.

In spite of certain limitations, the Municipal Court Act of Philadelphia affords an unexampled opportunity for the establishment of a business court to be conducted on business principles and represents the high-water mark of court reform in this city.

Samuel Scoville, Jr.

Philadelphia.